

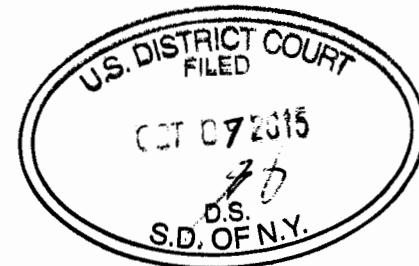
15 MAG

3617 ORIGINAL

Approved:

JILAN KAMAL  
Assistant United States Attorney

Before: HONORABLE HENRY PITMAN  
United States Magistrate Judge  
Southern District of New York



UNITED STATES OF AMERICA

- v. -

MATTHEW TIVY,  
Defendant

SOUTHERN DISTRICT OF NEW YORK, ss.:

John Robertson, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI") and charges as follows:

COUNT ONE

(Inducement of Minor to Engage in Sexually Explicit Conduct)

1. From at least in or about December 2014, up to and including on or about January 2015, in the Southern District of New York and elsewhere, MATTHEW TIVY, the defendant, willfully and knowingly did employ, use, persuade, induce, entice, and coerce a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, knowing and having reason to know that such visual depiction would be transported and transmitted using a means and facility of interstate and foreign commerce, which visual depiction was actually transported and transmitted using a facility of interstate and foreign commerce, to wit, TIVY induced an approximately fourteen-year-old boy to meet with him, engage in sexual intercourse, create multiple video recordings of the encounter, and send the video recordings of the encounter to TIVY's cellular device via multimedia messaging.

(Title 18, United States Code, Sections 2251(a) and 2.)

COUNT TWO  
(Receipt and Distribution of Child Pornography)

2. From at least in or about December 28, 2014, up to and including on or about January 2015, in the Southern District of New York and elsewhere, MATTHEW TIVY, the defendant, knowingly did receive and distribute materials that contained child pornography that had been mailed, and using a means and facility of interstate and foreign commerce, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, among other things, TIVY distributed to users of a social media site video recordings of TIVY engaged in sexual intercourse with an approximately fourteen-year-old boy, from whom TIVY had received the video recordings.

(Title 18, United States Code,  
Sections 2252A (a) (2) (B) and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

3. I have been personally involved in the investigation of this matter. This affidavit is based upon my investigation, my conversations with other law enforcement agents, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

4. Through my conversations with the Manhattan District Attorney's Office and my review of records and documents obtained and maintained by law enforcement, I have learned, among other things, the following:

a. On May 6, 2015, the New York Police Department ("NYPD") arrested MATTHEW TIVY, the defendant, and charged him with sexual abuse of a minor. In connection with TIVY's arrest, the NYPD recovered from TIVY a Samsung Galaxy S-5 smartphone ("TIVY'S DEVICE").

b. Pursuant to a search warrant obtained by the Manhattan District Attorney's Office, law enforcement officers searched TIVY'S DEVICE.

5. From my review of data obtained from TIVY'S DEVICE, I have learned, among other things, the following:

a. TIVY'S DEVICE contains messages and multimedia messages with a certain telephone number ("VICTIM PHONE-1"). In these messages, TIVY communicates with the user of VICTIM PHONE-1 ("VICTIM 1"). TIVY and VICTIM 1 first exchanged text messages on December 28, 2014.

b. TIVY'S DEVICE contains image and video files of VICTIM 1. One of these image files appears to be a copy of the user profile picture for an account held by VICTIM 1 on the social media application Grindr. Grindr uses location data to identify Grindr subscribers who are within close geographical proximity to each other. In my training and experience, many Grindr subscribers use it to facilitate in-person sexual encounters.

c. VICTIM 1's Grindr profile photograph consists of a headshot of VICTIM 1, who appears to be an African-American male, showing his face, neck, and shoulders. In the photograph, VICTIM 1 is wearing a light blue, nylon, bomber-style jacket with bright red-, white-, and blue-striped ribbing around the collar.

d. On December 30, 2014, at 9:53 a.m., TIVY sent VICTIM 1 a text message saying "I like your new pic on grindr :)" and asking if VICTIM 1 was "free later." After Victim 1 responded, TIVY then asked "what area of the Bronx should I head to?" VICTIM 1 indicated that he was in a Best Buy store in the Bronx. TIVY agreed to drive and park on the top floor of the Best Buy parking lot, which TIVY noted would be "pretty good for privacy." At 12:41 p.m., TIVY texted VICTIM 1 and stated "I'm in a black Honda." At 1:40 p.m., TIVY texted VICTIM 1 "That was really fun [VICTIM 1]!" Minutes later, TIVY added "Even though you were very bad not to tell me how young you are haha but I didn't mind; p." At 1:55 p.m., VICTIM 1 responded "Oh, I thought I told you" to which TIVY texted "I've been with a high school guy before so it's cool."

e. On December 31, 2014, at 7:38 a.m., TIVY texted VICTIM 1 to ask "can you send me the video you made yesterday? ;)." TIVY sent another message several minutes later, stating, "I wish I could have taken your cock for longer."

f. From my review of multimedia messages on TIVY'S DEVICE, I identified two video files sent to TIVY's DEVICE from VICTIM PHONE-1 on December 31, 2014. The first was sent at 7:53 a.m.

g. At 7:57 a.m., TIVY commented in response to the first video sent by VICTIM 1 "that video is hot." TIVY further asked "Do you have the first part where I am sucking you? :-p" After sending the second video, VICTIM 1 stated "This is all I have left. I deleted the one where you sucked me." TIVY then responded "Probably a good idea since I'm sure it shows my face LOL." TIVY then added "And we need a real cameraman to get some better videos for next time : p haha."

h. VICTIM 1 sent TIVY the second video at 8:02 a.m. Both videos depict the anal penetration of an African-American male by a Caucasian male.

i. In both videos, the jacket worn by VICTIM 1 in his Grindr profile photo is visible. In particular, the distinctive, red-, white-, and blue-striped ribbing seen around the collar of VICTIM 1's jacket in his Grindr profile photo is visible.

j. A few days later, on January 3, 2015, TIVY sent VICTIM 1 the following text message: "Hey [VICTIM 1], how's it going? Are you still in NY? Sent you a message on grindr :)." TIVY then sent another message stating, "I have a bottom buddy who wants to get fucked while I watch if you'd be into that ;) I can video it :-p."

6. From a review of publicly viewable Facebook user accounts, I have also identified a user account with the same name as VICTIM 1. I compared publicly available photographs of that Facebook account user with the profile photo from VICTIM 1's Grindr account found on TIVY'S DEVICE. The individual depicted in the Grindr profile photo is the same person seen in photographs posted by the Facebook account user to his account. In addition, on December 26, 2014, VICTIM 1 posted a photograph of himself to his Facebook account wearing the same light blue, bomber-style jacket with red-, white-, and blue-striped ribbing on the collar that appears in VICTIM 1's Grindr profile photo. From other photographs and postings on VICTIM 1's Facebook account, I have determined that VICTIM 1 is presently a junior at a high school in the Bronx.

7. Based on my review of account records associated with VICTIM PHONE-1, I have concluded that VICTIM PHONE-1 is assigned to a certain subscriber ("Subscriber 1") associated with an address located in Bronx, New York ("Address 1").

8. From my review of commercial databases and publicly viewable Facebook user accounts, I determined that Subscriber-1 is related to VICTIM 1.

9. Based my review of on the content of the messages, information obtained regarding VICTIM 1 from records and commercially available databases, and social media accounts, I have concluded that VICTIM 1 was approximately fourteen to fifteen years of age at the time of this encounter.

**DISTRIBUTION OF VIDEO OF ENCOUNTER WITH VICTIM 1**

10. My review of data recovered from TIVY's DEVICE also revealed that he maintains and controls a user account on KIK, a social media application that allows users to transmit text messages, as well as image and video files. From my review of this application, I learned, among other things, the following:

a. The account name for the KIK application installed on TIVY's DEVICE was "Matt Ivy."

b. On April 10, 2015, TIVY engaged in a chat with another KIK user ("KIK USER-1). During their communications, TIVY wrote, "I have one kid that i fucked in my car. He's a high school sophomore."

c. Matt Ivy then sent the Grindr profile photo of VICTIM 1 to KIK USER-1, as well as two video files, via a Dropbox URL.<sup>1</sup> I have reviewed the video files sent to KIK USER-1 and they appear to be identical to the video files TIVY received from VICTIM 1 on December 31, 2014. Moreover, the file names of the two video files sent to KIK USER-1 are identical to the file names sent by VICTIM 1 to TIVY on December 31, 2014.

**ADDITIONAL VICTIMS & CONDUCT**

11. Based on my review of records and data obtained from TIVY's DEVICE, I have identified approximately five other victims who, based on my training and experience, as well as my review of photos and videos, appear to be minors. For example:

a. Via group KIK chats, TIVY has distributed image files of a known New Jersey-based minor victim (the "NEW JERSEY VICTIM"), which depict his face and genitals, to other KIK users. While distributing these photos, TIVY identifies the boy as fifteen years' old, encourages other KIK users to contact NEW JERSEY VICTIM for a group sexual encounter, and states that he, TIVY, engaged in oral sex with the NEW JERSEY VICTIM when the NEW JERSEY VICTIM was fourteen years' old.

---

<sup>1</sup> Dropbox is a cloud-storage Internet company. Users of Dropbox can create a free account, to which they can upload files. These files may be distributed to others via a URL link. By pasting this URL link in a web browser, the uploaded files may be accessed by anyone in possession of the URL.

b. In KIK chats, TIVY sends a Florida-based sixteen-year-old male videos of a Miami-based fourteen-year-old male masturbating, and TIVY receives, in return, sexually explicit videos of the sixteen-year-old engaged in sexually explicit conduct. Based on my training and experience, both Florida-based males appear to be minors.

c. TIVY has distributed via a KIK chat photos of the genitals of a sixteen-year old whom TIVY states lives in southern Ohio, as well other images of child pornography of unknown provenance.

CONTINUING CONDUCT

12. In connection with my review of social media applications on TIVY'S DEVICE, I have also identified a user account on Chaturbate. Chaturbate is an internet-based program in which users can engage in sexually explicit conduct that is displayed via webcam and discussed via chat.

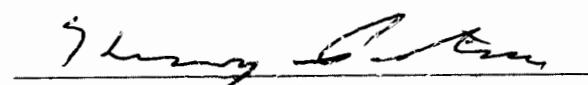
13. From my review of account records for the user account "iluvundies" obtained from Chaturbate, I have determined that TIVY is the subscriber of the "iluvundies" user account.

14. From my review of TIVY's Chaturbate communications, I determined that, on July 18, 2015 - two months after his arrest by NYPD for sexual abuse of a minor - TIVY was chatting online regarding his sexual experience with minors, including with potential minor victims.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of MATTHEW TIVY, the defendant, and that he be arrested and imprisoned or bailed, as the case may be.

  
John Robertson  
Special Agent  
Federal Bureau of Investigation

Sworn to before me this  
7<sup>th</sup> day of October, 2015

  
HON. HENRY PITMAN  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK